

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
NORTHERN DIDISION

FILED - GR
April 16, 2014 10:28 AM
TRACEY CORDES, CLERK
U.S. DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
BY ald SCANNED BY [Signature]

LANCE MC NEAL,
302062

Plaintiff,

Case No. 2:11-cv-78
COA No. 14-1311

v.

Honorable Gordon J. Quist

Gary Kott, et. al,

Mag. Timothy P. Greeley

Defendant(s).

Lance Mc Neal #302062
Pro se
Muskegon Correctional Facility
2400 S. Sheridan Drive
Muskegon, MI 49442

Clifton B. Schneider (P70582)
Michigan Dept. of Attorney General
Attorney for MDOC Defendants
P.O. Box 30217
Lansing, MI 48909

PLAINTIFF'S NOTICE OF CROSS-APPEAL

Notice is hereby given that Lance Mc Neal, Plaintiff in the above-entitled matter, files this cross-appeal to the United States Court of Appeals for the Sixth Circuit from the United States District Court's Memorandum Order Adopting in Part and Rejecting in Part Report and Recommendation, dated February 28, 2014 (Doc #154). Plaintiff has concurrently filed a Motion for Extension of Time in which he has shown good cause for delay in filing this Notice of Cross-Appeal.

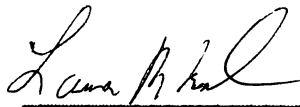
On March 12, 2014, Defendants Kott and Lalonde appealed that portion of the Memorandum Order that denied their Motion For Summary Judgment based on qualified immunity as to the Eighth Amendment claims (Doc #162). On March 17, 2014, the District Court issued a Memorandum Order (1) Granting Defendants' Motion to Stay

Proceedings Pending the Appeal; (2) Denying Plaintiff's Motion Not To Stay Trial Proceedings; and (3) Dismissing as Moot Plaintiff's Motion For Reconsideration (Doc #173). Therefore, Plaintiff now files this Cross-Appeal of that portion of the District Court's Memorandum Order (Doc #154), which granted Defendant's Motion for Summary Judgment and dismissed Plaintiff's retaliation claim against Defendant Lalonde.

Plaintiff files this cross-appeal because he believes addressing this issue now would materially advance the termination of the case, and prevent repetitive litigation. Alternatively, if this Court finds it necessary, Plaintiff ask:

- 1) This Court certify this issue for appeal under 28 U.S.C. 1292(b); or
- 2) Request that the Sixth Circuit exercise Pendent Appellate Jurisdiction and review this issue on appeal.

Respectfully Submitted,



Dated: April 14, 2014

Lance Mc Neal #302062
Muskegon Correctional Facility
2400 S. Sheridan Drive
Muskegon, MI 49442-6298

DECLARATION OF SERVICE

I, Lance Mc Neal, states that on April 14, 2014, I placed this Notice of Cross-Appeal and a Motion for Extension of Time to File a Notice of Cross-Appeal, in the Michigan Department of Corrections (MDOC) Expedited Legal Mail system, and authorized MDOC to deduct from my account the amount required for First-class postage. I further state, that I mailed a copy to Defendant's counsel, Clifton B. Schneider, Assistant Attorney General, Michigan Department of Attorney General, Corrections Division, P.O. Box 30217, Lansing, MI 48909.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Signed this 14th day of April, 2014.



Lance Mc Neal